

§ 275.203-2

Commission, until you have paid the filing fee.

[65 FR 57448, Sept. 22, 2000; 65 FR 81737, Dec. 27, 2000; 68 FR 42248, July 17, 2003; 73 FR 4694, Jan. 28, 2008]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting Form ADV, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 275.203-2 Withdrawal from investment adviser registration.

(a) *Form ADV-W*. You must file Form ADV-W (17 CFR 279.2) to withdraw from investment adviser registration with the Commission (or to withdraw a pending registration application).

(b) *Electronic filing*. Once you have filed your Form ADV (17 CFR 279.1) (or any amendments to Form ADV) electronically with the Investment Adviser Registration Depository (IARD), any Form ADV-W you file must be filed with the IARD, unless you have received a hardship exemption under § 275.203-3.

(c) *Effective date—upon filing*. Each Form ADV-W filed under this section is effective upon acceptance by the IARD, provided however that your investment adviser registration will continue for a period of sixty days after acceptance solely for the purpose of commencing a proceeding under section 203(e) of the Act (15 U.S.C. 80b-3(e)).

(d) *Filing fees*. You do not have to pay a fee to file Form ADV-W through the IARD.

(e) *Form ADV-W is a report*. Each Form ADV-W required to be filed under this section is a “report” within the meaning of sections 204 and 207 of the Act (15 U.S.C. 80b-4 and 80b-7).

[65 FR 57449, Sept. 22, 2000]

§ 275.203-3 Hardship exemptions.

This section provides two “hardship exemptions” from the requirement to make Advisers Act filings electronically with the Investment Adviser Registration Depository (IARD).

(a) *Temporary hardship exemption—(1) Eligibility for exemption*. If you are registered or are registering with the Commission as an investment adviser and submit electronic filings on the Investment Adviser Registration Depository (IARD) system, but have unanticipated

17 CFR Ch. II (4-1-10 Edition)

technical difficulties that prevent you from submitting a filing to the IARD system, you may request a temporary hardship exemption from the requirements of this chapter to file electronically.

(2) *Application procedures*. To request a temporary hardship exemption, you must:

(i) File Form ADV-H (17 CFR 279.3) in paper format with no later than one business day after the filing that is the subject of the ADV-H was due; and

(ii) Submit the filing that is the subject of the Form ADV-H in electronic format with the IARD no later than seven business days after the filing was due.

(3) *Effective date—upon filing*. The temporary hardship exemption will be granted when you file a completed Form ADV-H.

(b) *Continuing hardship exemption—(1) Eligibility for exemption*. If you are a “small business” (as described in paragraph (b)(5) of this section), you may apply for a continuing hardship exemption.

The period of the exemption may be no longer than one year after the date on which you apply for the exemption.

(2) *Application procedures*. To apply for a continuing hardship exemption, you must file Form ADV-H at least ten business days before a filing is due. The Commission will grant or deny your application within ten business days after you file Form ADV-H.

(3) *Effective date—upon approval*. You are not exempt from the electronic filing requirements until and unless the Commission approves your application. If the Commission approves your application, you may submit your filings to FINRA in paper format for the period of time for which the exemption is granted.

(4) *Criteria for exemption*. Your application will be granted only if you are able to demonstrate that the electronic filing requirements of this chapter are prohibitively burdensome or expensive.

(5) *Small business*. You are a “small business” for purposes of this section if you are required to answer Item 12 of Form ADV (17 CFR 279.1) and checked “no” to each question in Item 12 that you were required to answer.